

ORDINANCE NO. 46-551

AN ORDINANCE AMENDING SECTIONS 3.49.030, 3.49.040, 3.49.070, 3.49.130, 3.49.140, AND 3.49.170 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO REQUIREMENTS AND OPERATING PROCEDURES FOR EMERGENCY WRECKER SERVICE AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.49.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“License – Application – Fees – Renewal. (a) A person desiring to engage in emergency wrecker service in the city shall file with the city’s licensing agent a written application upon a form provided for that purpose, which must be signed by the applicant or the applicant’s authorized agent. The following information is required in the application:

- (1) Business name, address and telephone number of the emergency wrecker company;
- (2) Number and types of wreckers to be operated;
- (3) Vehicle identification number of each wrecker;
- (4) The location of the facilities to be owned or leased by the applicant for the purpose of operating the emergency wrecker service, including the location of primary and secondary storage facilities;

(5) The name, address and telephone number of the owner of the emergency wrecker company;

(6) An agreement that the applicant will participate in the wrecker rotation list;

(7) Proof that the applicant has secured the payment of compensation to the applicant's employees as set forth in K.S.A. 44-532(b) and amendments thereto.

(b) A fee of fifty dollars for processing the initial application or any renewals thereof must be submitted with the application; this fee accompanying the applicant shall not be refundable.

(c) Every license issued pursuant to this chapter shall terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation of an emergency wrecker service is allowed in the following year. Anyone desiring to renew a license shall follow the procedures in subsection (a) above for an initial application.”

SECTION 2. Section 3.49.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“License – Issuance -- Inspection sticker -- Storage facilities.

The city's licensing agent shall, after approval from the chief of police, issue a license to participate in the emergency wrecker service to applicants complying with the provisions of this chapter and shall issue an emergency wrecker inspection sticker approving each vehicle. The emergency wrecker inspection sticker must be affixed securely to the inside upper left-hand corner of the

windshield of the inspected wrecker. No license authorizing participation in the emergency wrecker service and no inspection sticker approving the operation of an emergency wrecker on the streets of the city shall be issued unless the following requirements are met:

(1) Vehicles. Each applicant, in order to secure a license under this chapter, must own and/or lease the following vehicles in the following numbers and be equipped as follows:

(a) Five wreckers; each wrecker shall not be less than one ton in size, shall be equipped with a power-operated winch line and boom with a factory-rated lifting capacity of not less than five thousand pounds, single line capacity, shall carry as standard equipment a two-way radio or mobile or cellular phone, dolly, cycle sling or trailer, tow bar, safety chains, fire extinguisher, wrecking bar, broom and shovel, and shall be clearly and permanently marked with the name and address of the licensee on each side of the vehicle;

(b) One wrecker, not less than two and one-half tons in size, equipped with a power winch, winch line and boom, having twelve to sixteen ton single or double line capacity, in addition to the equipment listed in subsection (a) of this section.

(c) Wreckers shall not be leased from other wrecking companies which participate in the emergency wrecker rotation list.

(2) Storage Facilities. Each applicant, in order to be licensed under this chapter, must own and/or lease facilities for the storage of vehicles having the following space and equipment requirements:

(a) Primary Storage. Vehicle storage space must be provided at a location which is within the corporate limits of the city and in compliance with applicable zoning ordinances. Such space must have a capacity for storing at least thirty-five vehicles excluding bicycles and motorcycles. This storage space must be fenced and capable of being locked. This space must also be kept accessible to vehicles, in conformance with all health and zoning ordinances and lighted in accordance with the requirements of the police department. This storage space must be available for receiving towed vehicles on a twenty-four-hour, seven-day-per-week basis, however, the licensee shall not be required to release vehicles from the storage area between the hours of seven p.m. and seven a.m.;

(b) Secondary Storage. Additional vehicle storage space must be provided for two hundred vehicles at a location or locations within one mile of the limits of the city. Such location or locations must be in compliance with applicable zoning ordinances and will be lighted in accordance with the requirements of the police department. This space must further be kept fenced and locked, in conformance with all health ordinances and accessible to vehicles. Secondary storage as required in this section may be at the same location as the primary storage, it being the

intent of this chapter that space be provided for a total of two hundred thirty-five vehicles, excluding bicycles and motorcycles and that storage for thirty-five of such vehicles be in the corporate limits of the city.

(3) In order to be licensed under this chapter, each licensee shall maintain and pay the premiums for the following insurance policy or policies:

(a) Public liability insurance indemnifying the public generally against damages arising out of the operation of emergency wrecker service. The licensee shall be responsible for entering the city on such policy or policies of insurance as a named insured. Such policy or policies of insurance shall be in an amount of at least five hundred thousand dollars for one person, five hundred thousand dollars for one accident, and five hundred thousand dollars property damage, and a minimum aggregate limit of five hundred thousand dollars. This coverage can be provided as a combined single limit. In the insurance certificate, the insurance company must state that the city will be given written notice if the policy is canceled or changed within ten days prior to the effective date thereof. The applicant shall file certificates of insurance with the city clerk;

(b) Garage keeper's minimum liability policy covering fire, theft or damage to or loss of property while in tow or otherwise in the care, custody and control of the licensee. The licensee shall be responsible for entering the city on such policy or policies of insurance as a named insured. Such policy or policies of insurance shall be in an amount of at least five hundred thousand dollars for each individual claim up to a

maximum aggregate limit of five hundred thousand dollars per occurrence.

In the insurance certificate, the insurance company must state that the city will be given written notice if the policy is canceled or changed within ten days prior to the effective date thereof. The applicant shall file certificates of insurance with the city clerk.”

SECTION 3. Section 3.49.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“License--Suspension. (a) The chief of police or the city council, upon five days' written notice to the licensee , shall have the authority to suspend an emergency wrecker company license for a period not to exceed sixty days for one or more of the following reasons:

(1) Failure of the licensee to maintain such licensee's wrecker or equipment in a good and safe working condition;

(2) Violation by the licensee or an employee of the licensee of a provision of this chapter;

(3) Violation by an emergency wrecker driver of a provision of the motor vehicle or traffic laws of this state or city while in the scope of his employment in the emergency wrecker service;

(4) Failure of the licensee to comply with the terms and conditions of the city's nondiscrimination and equal opportunity plan;

(5) Failure of the licensee to maintain the required liability and worker's compensation insurance policies as required by this chapter;

(6) Obtaining the license by fraudulent conduct or false statements;

(7) The wrecker or towing service violated the fee and charge schedule by overcharge;

(8) The wrecker or towing service consistently refuses to respond to requests for service by the police department or consistently fails to answer telephone calls from the police department at the telephone number supplied by the business for towing services;

(9) The wrecker or towing service responds to the scene of an accident, emergency, or impoundment situation, when not specifically called to do so, and solicits wrecker or towing business;

(10) The City of Wichita is not satisfied with the general services of the owner and/or employees or with the cooperation it has received from such wrecker or towing service or other justifiable cause.

(b) A licensee may appeal such an order suspending an emergency wrecking service license to the city council. Such appeal must be in writing and must be filed with the city clerk within ten days from the date of such order of suspension. The order of suspension shall be stayed during the pendency of any such appeal.”

SECTION 4. Section 3.49.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Fees for emergency wrecker service. (a) Emergency
wrecker companies shall charge the following fees for services rendered
under this chapter:

(1) Towage. Where a wrecker that is less than two and one-half tons is requested, there shall be a maximum charge of sixty-five dollars per wrecker for towing a vehicle from one point to another location within the corporate limits of the city, as designated by the owner of the vehicle or by the police department at the place where the tow originated. Where a two-and-one-half-ton wrecker or larger is requested, the maximum charge shall be one hundred dollars per wrecker. For towing combination vehicles, the maximum charge shall be two hundred dollars per wrecker. In addition, mileage at the rate of two dollars and eighty-five cents per mile from the point of hookup for each mile any vehicle is towed within the city may be charged, except that where a two-and-one-half-ton wrecker is requested, a rate of four dollars and fifty cents per mile may be charged. Towing shall be by way of the most reasonable direct route between the point of the tow's origination and its destination.

(2) Waiting Time. Waiting time, when required by a police officer in charge at the scene of an accident, shall be ten dollars per quarter hour or any part thereof after the wrecker has been at the scene of the accident thirty minutes.

(3) Specialized Towing. For uprighting any overturned vehicle other than a motorcycle or bicycle, the maximum charge shall be twenty dollars and when dolly are required, an additional fee not to exceed twenty dollars may be charged.

(4) Winching. An additional charge of fifteen dollars for each quarter hour or any part thereof may be charged when a wrecker that is less than two and one-half tons is used for winching. An additional twenty-five dollars for each quarter hour or any part thereof may be charged when a wrecker that is two and one-half tons or larger is used for winching.

(5) Processing fee. A fee of fifteen dollars per vehicle shall be assessed to offset costs of notification to vehicle owners and the sale of unclaimed vehicles by the Wichita Police Department.

(6) No other charges are to be levied against vehicles towed under this section without the written authorization of the chief of police, or at the request of the vehicle's owner.

(b) For storage at the licensee's facility, the licensee shall be paid twenty dollars for each twenty-four-hour period or portion thereof. Subject to the availability of space, vehicles which are towed by the licensee and which are operable shall be stored at the licensee's primary facility for a period of twenty-four hours. Vehicles which because of particular damage or because of their condition may be further damaged

by exposure to inclement weather must be covered with a waterproof protective covering so that damage from inclement weather is minimized.

Vehicles which have been rendered inoperable may be taken directly to the licensee's secondary storage at the discretion of the licensee.

SECTION 5. Section 3.49.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Requirements and operating procedures for emergency wrecker

service. (a) An emergency wrecker company licensee shall comply with the following requirements and procedures:

(1) Maintain twenty-four-hour wrecker service;

(2) Arrive at the accident or to the place designated by the dispatcher at the Special Police Information Data Entry and Retrieval Unit (SPIDER) within a reasonable time after having been notified to do so, such response time not to exceed forty-five minutes;

(3) Deliver, in every instance, the wrecked or disabled vehicle to its storage facility as provided in Section 3.49.130, and amendments thereto;

(4) When directed by an officer at the scene of an accident, temporarily remove vehicles which are creating a traffic hazard to a side street or other place as may be directed by the officer;

(5) Report to the city's licensing agent all changes in emergency wreckers and equipment used in the licensee's emergency wrecker service and render all additional vehicles for inspection by the

chief of police. A wrecker without a valid emergency wrecker inspection sticker is not allowed to participate in the wrecker rotation list;

(6) Completely remove from the site of an accident all resulting wreckage, debris, reasonable amounts of automotive fluids which are dropped or spilled, and any and all other reasonable amounts of injurious substances dropped upon the highway from such vehicle including all broken glass, which remains in the street, but excluding truck or vehicle cargoes, before leaving the site. In the event two or more wreckers are called to the same accident, both operators shall be equally responsible for the removal of debris from the right-of-way;

(7) Not permit the use of a wrecker by another licensee;

(8) The licensee shall not permit an individual to drive a wrecker unless the individual holds a valid driver's license.

(9) The licensee and its employees shall not assess or collect fees or charges in excess of those set forth in Section 3.49.130.

(10) The licensee and its employees shall not prohibit or refuse to allow the owner, operator or person in possession of the vehicle, who has proof of title or registration, to retrieve any medicine, medical supplies or governmental-issued documents regarding identification from an impounded or towed vehicle.

(11) Have all wreckers clearly and permanently marked with the name and address of the licensee on both doors of the vehicle;

(12) All wrecker drivers of the licensee shall wear shirts identifying the licensee's company name;

(13) The licensee shall, upon request by a vehicle owner, disclose the name and address of its insurance carrier;

(14) Carry in all vehicles owned or leased by the licensee "Wrecker Operator Receipt Books" which shall contain forms that shall be filled out and signed by an authorized public agency at the scene of an impound. The form will authorize the licensee or the licensee's agent or employee to tow the vehicle, will contain a space to be marked by the authorized public agency indicating whether the vehicle shall be held as evidence in a criminal matter, and will state that the licensee assumes liability for the vehicle being towed along with any and all property contained therein. Such forms shall be subject to prior approval by the city's licensing agent and it shall be the responsibility of the licensee to provide such forms;

(15) Shall at all times comply with K.S.A. 8-1103 and amendments thereto;

(16) Release of Vehicles. Impounded vehicles may be retrieved from the licensee only upon a showing by the person attempting to retrieve the vehicle that he or she is the owner thereof or is the authorized agent of the owner, and proof of valid registration is presented to the licensee. In no case may a vehicle be released that has been held as evidence in a criminal matter without prior authority from the police department;

(17) Impound Hearing Procedure. If the owner of any impounded vehicle shall request a hearing pursuant to Section 11.97.040 of this code or amendment thereto, the owner shall contact the municipal court who will schedule the hearing. Pending such hearing, the owner may retrieve the impounded vehicle as set forth in Section 11.97.040(c) of this code and amendments thereto. If after hearing, the court finds no factual basis for the impoundment of said vehicle, the licensee shall return any money paid for the impoundment to the owner or person having lawful custody of the vehicle, and the charges incurred by the licensee may be deducted from the fees due the city from the licensee pursuant to Section 3.49.170 of this code and any amendments thereto. If after hearing the court determines that the vehicle was lawfully towed, then the licensee may retain the payment made to retrieve the vehicle.”

SECTION 6. Section 3.49.170 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“**Fees payable to the city.** In consideration of the grants in this chapter to the licensees by the city, each licensee shall each month remit to the city a sum of money equal to five percent of the monthly gross receipts collected by reason of emergency wrecker service. In addition, all processing fees collected pursuant to section 3.49.130(5) of the Code of the City of Wichita shall be paid to the City monthly. The licensee may deduct from the remittance any charge for services rendered to the city and to city vehicles as requested by an authorized public

agency. Licensees shall submit a statement of services rendered to the city itemized according to the system of charges set forth in this chapter.”

SECTION 7. The originals of Sections 3.49.030, 3.49.040, 3.49.070, 3.49.130, 3.49.140 and 3.49.170 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 8. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 8th day of March, 2005.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law